

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of:)	
)	
Wireless Telecommunication Bureau Seeks)	
Comment on American Electric Power Service)	FCC File No. 0007352620
Corporation Request for Waiver Regarding)	DA 16-1073
800 MHz Frequencies Reserved for Public)	
Safety)	

**REPLY COMMENTS OF
THE NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS COUNCIL**

The National Public Safety Telecommunications Council (NPSTC) submits these reply comments in response to the Commission's Public Notice in the above-captioned application.¹ The Public Notice seeks input on a request for waiver of Section 90.617 and 90.621 of the rules to allow use of Sprint-vacated frequencies in the Sugarcreek, Ohio area. NPSTC takes no position on the specific waiver request. These reply comments address a policy issue raised in the first round comments submitted by the Enterprise Wireless Alliance (EWA). EWA recommended the Commission re-examine the continued need to reserve Sprint-vacated frequencies for potential public safety applicants for a period of three years following the vacated frequencies release in a given region, as provided for in Section 90.617 of the rules. NPSTC supports maintaining this rule, with any request for deviation addressed through the case-by-case waiver process, rather than by a rule change.

¹ Public Notice, Wireless Telecommunication Bureau Seeks Comment on American Electric Power Service Corporation Request for Waiver Regarding 800 MHz Frequencies Reserved for Public Safety, DA 16-1073, released September 22, 2016.

The National Public Safety Telecommunications Council

The National Public Safety Telecommunications Council is a federation of public safety organizations whose mission is to improve public safety communications and interoperability through collaborative leadership. NPSTC pursues the role of resource and advocate for public safety organizations in the United States on matters relating to public safety telecommunications. NPSTC has promoted implementation of the Public Safety Wireless Advisory Committee (PSWAC) and the 700 MHz Public Safety National Coordination Committee (NCC) recommendations. NPSTC explores technologies and public policy involving public safety telecommunications, analyzes the ramifications of particular issues and submits comments to governmental bodies with the objective of furthering public safety telecommunications worldwide. NPSTC serves as a standing forum for the exchange of ideas and information for effective public safety telecommunications.

The following 16 organizations serve on NPSTC's Governing Board:

- American Association of State Highway and Transportation Officials
- American Radio Relay League
- Association of Fish and Wildlife Agencies
- Association of Public-Safety Communications Officials-International
- Forestry Conservation Communications Association
- International Association of Chiefs of Police
- International Association of Emergency Managers
- International Association of Fire Chiefs
- International Municipal Signal Association
- National Association of State Chief Information Officers
- National Association of State Emergency Medical Services Officials
- National Association of State Foresters
- National Association of State Technology Directors
- National Council of Statewide Interoperability Coordinators
- National Emergency Number Association
- National Sheriffs' Association

Several federal agencies are liaison members of NPSTC. These include the Department of

Homeland Security (the Federal Emergency Management Agency, the Office of Emergency Communications, the Office for Interoperability and Compatibility, and the SAFECOM Program); Department of Commerce (National Telecommunications and Information Administration); Department of the Interior; and the Department of Justice (National Institute of Justice, Communications Technology Program). Also, Public Safety Europe is a liaison member. NPSTC has relationships with associate members: The Canadian Interoperability Technology Interest Group (CITIG) and the Utilities Technology Council (UTC), and affiliate members: The Alliance for Telecommunications Industry Solutions (ATIS), Open Mobile Alliance (OMA), Telecommunications Industry Association (TIA), TETRA Critical Communications Association (TCCA), and Project 25 Technology Interest Group (PTIG).

NPSTC Reply Comments

The Wireless Telecommunication Bureau seeks comment on a request for waiver of sections 90.617 and 90.621 of the Commission's rules filed on July 26, 2016 by American Electric Power Service Corporation (AEP). AEP applied to license seven Business/Industrial/Land Transportation (B/ILT) Category channels at Sugarcreek, Ohio that are Sprint-vacated channels in the 800 MHz band. Section 90.617 of the rules provides that such Sprint-vacated 800 MHz band channels are available exclusively for licensing to public safety eligible entities for three years following the time the vacated channels are made available for licensing. Similarly, critical infrastructure industry (CII) entities receive a reservation between three years and five years from release of the channels.

The three year time period is triggered on a region-by-region basis by issuance of a public notice once 800 MHz rebanding is completed in a given region. In the case of the AEP application, the frequencies requested are reserved for public safety until February 10, 2018. As a critical

infrastructure industry entity, AEP normally would be eligible to apply for the requested channels on or after February 10, 2018.

AEP has requested grant of these Sprint-vacated channels in advance of that date to fill in coverage gaps and increase spectrum capacity on its system, which requires a waiver of Section 90.617 of the rules. In support of the waiver, AEP states that there are no alternative channels available for which it currently would be eligible and that no public safety eligible entities have requested channels vacated by Sprint in this area of Ohio since the channels were made available in February 2015. AEP also requests a waiver of section 90.621 of the rules because the proposed operations are short-spaced to the locations of other Sprint-vacated co-channel facilities.

NPSTC takes no position on the specific waiver requests submitted by AEP. However, in these reply comments, NPSTC addresses a policy issue raised in the first round comments submitted by the Enterprise Wireless Alliance (EWA). EWA recommended the Commission re-examine the continued need to reserve Sprint-vacated frequencies for public safety applicants for three years and CII applicants from years three to five, respectively, as provided for in Section 90.617 of the rules. In its comments, EWA states:

The reservation of Sprint-vacated spectrum for certain classes of eligible entities set out in Rule Section 90.617(g) was adopted more than twelve years ago. In the intervening decade, there has been a positive trend toward the consolidation of heretofore individual 800 MHz public safety systems into larger county, regional and even statewide networks that typically have deployed more advanced technology with greater capabilities and efficiencies, sometimes including the ability to utilize 700 MHz as well as 800 MHz spectrum.

...EWA suggests that it may be an appropriate time for the FCC to examine the extent to which public safety entities have taken advantage of their three-year exclusive right to Sprint-vacated spectrum. It should re-evaluate whether a three-year spectrum reservation still is justified in light of technology advances, the need for spectrum efficiencies, and the spectrum shortages that exist for other deserving classes of private land mobile licensees.²

² EWA comments

NPSTC supports maintaining the provisions of Section 90.617, with any request for deviation addressed through the case-by-case waiver process, rather than by a rule change. While the rule has been in place for over twelve years as EWA states, the three year reservation in a given area begins only when the Commission issues a Public Notice recognizing that 800 MHz rebanding in a given region has been completed. For example, in the case of AEP, the Sprint-vacated channels have been reserved for public safety only since February 2015. There are still regions in border areas of the country for which 800 MHz rebanding is not yet completed and the reservation of any Sprint-vacated channels for public safety has not even begun. Therefore, the twelve-year life span of the rule is somewhat irrelevant to the question EWA raises.

The consolidation of public safety systems referenced by EWA as a reason to re-examine the preference actually can lead to additional public safety demand for channels in the 800 MHz band. Some such consolidations have transitioned individual communications systems in bands below 800 MHz to trunked systems that utilize the 800 MHz spectrum. These transitions normally provide public safety agencies improved communications capacity, reliability and interoperability. NPSTC has discussed the issue with public safety frequency coordinators, who have advised that local and state agencies have made significant use of the reservation under Section 90.617 to update and/or expand their respective communications systems.

NPSTC also notes that Sugarcreek, Ohio in which AEP requests licensing of the Sprint-vacated channels is a relatively rural area of the state, located approximately 30 miles southwest of Canton. The population of Sugarcreek is listed as only 2,233 people in 2014.³ The lack of any public safety applications to date for these channels in this particular rural area in no way

³ <http://www.city-data.com/city/Sugarcreek-Ohio.html>

signifies that there is a broader lack of public safety requirements for 800 MHz Sprint-vacated channels across the country.

Finally, EWA and the Land Mobile Communications Council (LMCC) have recognized in other proceedings that speculators exist in the market who quickly submit applications for 800 MHz band frequencies at the instant they become available, in schemes to sell those frequencies to another party for a substantial profit.⁴ Such actions remove the availability of frequencies from entities who have a legitimate need for 800 MHz channels to provide additional capacity or coverage in their communications networks. If the reservations defined in Section 90.617 of the rules for public safety and critical industry infrastructure did not exist, Sprint-vacated channels may very well fall prey to such speculators, and the channels would not be available for either public safety or CII entities.

Accordingly, while NPSTC can appreciate EWA's diligence in representing its membership of land mobile users outside the public safety community, we do not believe the facts support an elimination of the provisions of Section 90.617. NPSTC expects one or more public safety frequency coordinators to submit additional information regarding the local and state agencies that have been able to upgrade their communications systems under the provisions of Section 90.617.

Conclusion

NPSTC takes no position on the application submitted by AEP. However, NPSTC

⁴ See Notice of Proposed Rulemaking, WP Docket 16-261, released August 18, 2016, and EWA Ex Parte filing submitted October 19, 2016 in that proceeding.

responds to recommendations submitted by EWA that the Commission re-examine the need for Section 90.617 of the rules. That section provides a three year reservation for public safety to apply for Sprint-vacated channels, and a similar reservation for CII entities to apply between three years and five years, following release of any Sprint-vacated channels in a given region.

NPSTC believes the provisions of Section 90.617 are still required. Some regions in border areas have not yet completed rebanding, so any Sprint-vacated channels in those regions are not yet released. Furthermore, without the reservations contained in Section 90.617, speculator activity to profit from licensing of frequencies could essentially remove any Sprint-vacated channels from access by either public safety or critical infrastructure entities who have legitimate requirements for additional 800 MHz channels. Accordingly, NPSTC recommends the Commission maintain Section 90.617 and continue to handle any deviations from that rule through the case-by-case waiver process.

Paul R. Patrick, Vice Chairman

A handwritten signature in dark ink, appearing to read "Paul R. Patrick", with a stylized, cursive script.

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